

FINAL BILL REPORT

ESHB 2266

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Synopsis as Enacted

Brief Description: Concerning access to certain precursor drugs.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Campbell, Morrell, Green, Moeller, Lantz, Cody, McCune, Haler, Lovick, McDonald and Ahern).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Judiciary
Senate Committee on Ways & Means

Background:

Precursor drugs are substances that can be used to manufacture controlled substances. Ephedrine, pseudoephedrine, or phenylpropanolamine are common precursor items that are often used to manufacture methamphetamine illegally. Methamphetamine is a highly addictive substance that affects the central nervous system.

In Washington, only pharmacies, authorized health care practitioners, and registered shopkeepers and itinerant vendors may sell products containing ephedrine, pseudoephedrine, or phenylpropanolamine to consumers. They may not sell more than three packages of these products in a single transaction or a single product containing more than three grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

Manufacturers and wholesalers that sell a precursor substance in a suspicious transaction must report the transaction to the Board of Pharmacy. Shopkeepers and itinerant vendors who purchase ephedrine, pseudoephedrine, or phenylpropanolamine in a suspicious transaction must maintain inventory records of their nonprescription drugs and are limited in the amount of ephedrine, pseudoephedrine, or phenylpropanolamine that they may sell in proportion to their nonprescription drug sales.

Summary:

Products that contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine may only be sold to customers who are at least eighteen years old upon presentation of photographic identification. Merchants must keep the products in a central location that is inaccessible to customers without assistance. The Board of Pharmacy (Board) may exempt products that contain ephedrine, pseudoephedrine, or phenylpropanolamine in combination with another active ingredient if it determines that the product has been manufactured in such a way that it cannot be used to illegally manufacture methamphetamine.

A statewide pilot project will be conducted to require that merchants record transactions involving products that contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine through written or electronic logs or other means. The Board must develop a work group to evaluate the data received by the pilot project to determine the effectiveness of logs in preventing the illegal manufacture of methamphetamine. The work group will consist of representatives of law enforcement, the Washington State Patrol, the prosecuting attorneys, the Attorney General's Office, the Board, and the retail industry. The work group must present its findings and recommendations to the Legislature by November 1, 2007.

Products that contain ephedrine, pseudoephedrine, or phenylpropanolamine in combination with another active ingredient in a liquid, liquid capsule, or gel capsule form are exempt from the age, identification, accessibility, and log requirements unless the Board determines that they should be regulated pursuant to a petition from the Washington State Patrol or Washington Association of Sheriffs and Police Chiefs. The petition must establish that the product can be effectively converted into methamphetamine and that law enforcement or the Department of Ecology have found that there is substantial evidence of its use for the illegal manufacture of methamphetamine.

The Board of Pharmacy, law enforcement authorities, and the courts may access the logs for regulatory activities. It is a gross misdemeanor to violate the identification or access requirements. It is a defense to a violation of these requirements that the entity or its employees made a good faith attempt to comply by requesting that the customer provide identification and a reasonable effort to determine the customer's age. An employer may not retaliate against an employee who made a good faith attempt to comply by requesting that the customer provide identification and a reasonable effort to determine the customer's age.

The limitations on the number of packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine that may be sold in a single transaction or that may be purchased in a 24 hour period are reduced from three to two.

Votes on Final Passage:

House	79	17	
Senate	45	1	(Senate amended)
House			(House refused to concur)

Conference Committee

House	91	5
Senate	47	0

Effective: January 1, 2006
May 11, 2005 (Section 8)
October 1, 2005 (Section 2)